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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,174	01/29/2002	Douglas C. Fisher	01-111	2717
23843	7590	06/14/2005	EXAMINER	
FOOTHILL LAW GROUP, LLP 3333 BOWERS AVE., SUITE 130 SANTA CLARA, CA 95054			BADI, BEHRANG	
ART UNIT		PAPER NUMBER		
3621				
DATE MAILED: 06/14/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/066,174	FISHER ET AL.
Examiner	Art Unit	
Behrang Badii	3621	

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 03 May 2002.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-60 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) \_\_\_\_\_ is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) 1-60 are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
    Paper No(s)/Mail Date \_\_\_\_\_  
4)  Interview Summary (PTO-413)  
    Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

**DETAILED ACTION**

***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 59-60, drawn to a dynamic payment system in a node joining a first network whereupon online transactions are carried out, classified in class 725, subclass 5.
- II. Claims 53-58, drawn to a method for transferring funds, classified in class 705, subclass 40.
- III. Claims 1-9, drawn to a method of making a payment including authenticating the payer and authorizing the proposed payment in a single integrated process conducted without the involvement of the merchant, classified in class 705, subclass 53.
- IV. Claims 42-52, drawn to a dynamic payment system comprising an instant message system and functionality for establishing a persistent channel with a plurality of user's for dynamic approval of online payment transactions taking place on the first network using the users' network enabled devices, classified in class 705, subclass 17.
- V. Claims 29-41, drawn to a method for making a payment in an online transaction which includes associating an identifier assigned to the payer with at least one valid account number and other information pertaining to the payer in a database accessible to the trusted third party service, classified in class 705 subclass 79.

VI. Claims 10-28, drawn to a method for making payments including verifying the proposed payment, a telephone network, and allowing the payer to split the proposed payment 705 subclass 77.

The inventions are distinct, each from the other because of the following reasons:

Inventions I, II, III, IV, V and VI are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as a dynamic payment system in a node joining a first network whereupon online transactions are carried out. Invention II has separate utility such as a method for transferring funds. Invention III has separate utility such as a method of making a payment including authenticating the payer and authorizing the proposed payment in a single integrated process conducted without the involvement of the merchant. Invention IV has separate utility such as a dynamic payment system comprising an instant message system and functionality for establishing a persistent channel with a plurality of user's for dynamic approval of online payment transactions taking place on the first network using the users' network enabled devices. Invention V has separate utility such as making a payment in an online transaction which includes associating an identifier assigned to the payer with at least one valid account number and other information pertaining to the payer in a database accessible to the trusted third party service. Invention V has separate utility such as making payments including verifying the proposed payment, a telephone network, and allowing the payer to split the proposed payment. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Behrang Badii whose telephone number is 571-272-6879. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**Any response to this action should be mailed to:**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**or faxed to (703)872-9306**

Hand delivered responses should be brought to

United States Patent and Trademark Office  
Customer Service Window  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Any inquiry of a general nature or relating to the status of this application  
or proceeding should be directed to the Technology Center 3600 Customer Service  
Office whose telephone number is **(703) 306-5771**.

Behrang Badii  
Patent Examiner  
Art Unit 3621

BB

*Salvatore Cangialosi*  
SALVATORE CANGIALOSI  
PRIMARY EXAMINER  
ART UNIT 222